

### **REMARKS**

This Amendment is being filed in response to a final Official Action on a first Request for Continued Examination (RCE) for the above-identified application, and concurrent with a second RCE. The present application includes pending Claims 1-9, 14-16, 21 and 22, of which the final Official Action continues to reject or now rejects Claims 1-8, 14, 15 and 21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,850,540 to Peisa et al., in view of U.S. Patent No. 6,985,457 to Zeira et al. The Official Action rejects the remaining claims, namely Claims 9, 16 and 22 as being unpatentable over Peisa in view of Zeira, and further in view of one of U.S. Patent Application Publication No. 2002/0164980 to Eriksson et al., or U.S. Patent Application Publication No. 2002/0027897 to Mousley et al. In addition, the Official Action objects to Claim 5 as including a typographical error, which Applicants have amended to thereby overcome the objection.

As explained below, Applicants respectfully submit that the claimed invention is patentably distinct from Peisa, Zeira and Eriksson, taken individually or in combination. Nonetheless, Applicants have amended various ones of the claims to further clarify the claimed invention, and added new independent Claim 23 to recite further patentable features of the invention. In view of the amendments to the claims and the remarks presented herein, Applicants respectfully request reconsideration and allowance of all of the pending claims of the present application.

#### ***A. Priority of Zeira to Claimed Invention***

As indicated above, the final Official Action of the first RCE rejects all of the pending claims at least in part based on Zeira. Initially, Applicants note that the disclosure of Zeira relied upon for disclosing various elements of the claimed invention is not prior art to the present application, and can therefore not be properly cited against the claimed invention. In this regard, Zeira has a filing date of May 21, 2002, and claims priority from a provisional patent application filed August 10, 2001 (Provisional Patent Application No. 60/311,710). The present application, on the other hand, has a filing date of December 31, 2001. The present application therefore has an actual filing date before the filing date of Zeira on May 21, 2002. Accordingly, Zeira is only

prior art for the subject matter that was first disclosed by its provisional patent application. By way of example, the content of the Zeira provisional application that is carried over into the Zeira publication may be considered prior art. Subject matter that is newly added in the Zeira publication that was not disclosed by its provisional application is not prior art relative to the present application.

In order to determine the relevance of the Ziera publication to the claimed invention, Applicants obtained and reviewed a copy of its provisional application from the USPTO's public PAIR Web portal. Upon review of the Ziera provisional application, Applicants note that the disclosure of Zeira relied upon for disclosing various elements of the claimed invention is not disclosed by the provisional application and, as such, is not prior art to the present application, and can therefore not be properly cited against the claimed invention. In rejecting independent Claims 1 and 21, for example, the final Official Action cites to FIG. 2B and col. 4, ll. 52-67 (describing FIG. 2B) of the Ziera publication, neither of which are found in the Ziera provisional application. Therefore, should the next Official Action continue to cite Ziera for disclosing elements of the claimed invention, Applicants respectfully request that the Official Action provide corresponding citations to the Ziera provisional application for any portion of the Ziera publication alleged to disclose features of the claimed invention.

***B. Claims 1-8, 14, 15 and 21 are Patentable over Peisa in view of Zeira***

Amended independent Claim 1 recites a method of transmitting a radio signal. As recited, the method includes implementing a protocol stack having at least a physical layer and a medium access control layer, where the medium access control layer directs data from an application to a plurality of transport channels, in which the application data belongs to a plurality of classes for which different qualities of service are required, and the transport channels to which the data is directed being selected in accordance with the classes to which the data belongs. The method also includes generating a respective processing scheme for processing data in each transport channel, in which components of the processing scheme are selected and combined in dependence upon the source application from which the data is directed. Further, the method includes multiplexing the transport channels to produce a physical

layer signal, where a code identifying each transport channel processing scheme is included in the physical layer signal.

In contrast to independent Claim 1, neither Peisa nor Ziera, taken individually or in any proper combination, teach or suggest a method of transmitting a radio signal including generating a respective processing scheme for processing data in each of a plurality of transport channels, in which components of the processing scheme are selected and combined in dependence upon the source application from which data is directed. Peisa may refer to selection of an appropriate transport format combination (TFC) to meet criteria such as a guaranteed data transmission rate, or weighted queuing transmission rate. Even considering this feature, however, nowhere does Peisa teach or suggest generating a processing scheme in which its components are selected and combined in dependence upon the source application from which data is directed, as recited by amended independent Claim 1.

As previously explained, a transport format (TF) (i.e., processing scheme) may be associated with a transport channel. A collection of TFs for a plurality of transport channels form a transport format combination (TFC), and a collection of TFCs available for selection for a plurality of transport channels form a TFC set (TFCS). As recited by the claimed invention, a processing scheme for each transport channel (in a TFC for a plurality of transport channels) is dependent upon the source application from which data is directed. Peisa, however, is concerned with selection of TFCs within a TFCS, and not with how the TFs (processing schemes) within any TFC are setup (or upon what they depend). And although Peisa does explain the information included in a TF (see, e.g., col. 7, ll. 1-23), Peisa does not explain any dependency of any TF within any TFC, much less the dependency of a TF on a source application from which application is directed, similar to in the claimed invention.

In further contrast to amended independent Claim 1, neither Peisa nor Ziera, taken individually or in any proper combination, teach or suggest including a code identifying each transport channel processing scheme in a physical layer signal produced by multiplexing a plurality of transport channels. The Official Action concedes that Peisa does not disclose this feature, but instead attributes Ziera to the feature. As support for the foregoing feature, the Official Action cites to a portion of Ziera, including its FIG. 2B and accompanying description,

related to including a TFC Indicator (TFCI) in a data burst. Even if one could argue (although expressly not admitted) that including a TFCI in a data burst corresponds to including a code identifying each transport channel processing scheme in a physical layer signal produced by multiplexing a plurality of transport channels (as per amended independent Claim 1), Ziera's provisional application does not include this description. And as indicated above, to the extent that Ziera's publication discloses a feature that is not similarly disclosed in the provisional application from which the publication claims priority, that feature is not prior art to the claimed invention.

Applicants therefore respectfully submit that amended independent Claim 1, and by dependency Claims 2, 3 and 5-9, is patentably distinct from Peisa and Ziera, taken individually or in combination. Applicants also respectfully submit that amended independent Claims 4 and 21 recite subject matter similar to that of amended independent Claim 1. That is, independent Claim 4 recites a processing scheme for processing data in each transport channel, in which components of the processing scheme are arranged to be selected and combined in dependence upon the source application from which the data is directed; and independent Claim 21 recites selecting and combining transport formats in dependence upon the source application from which the data is directed. Thus, Applicants respectfully submit that amended independent Claims 4 and 21, and by dependency Claims 14-16, are also patentably distinct from Peisa and Ziera, taken individually or in any proper combination, for at least the reasons given above with respect to amended independent Claim 1.

For at least the foregoing reasons, Applicants respectfully submit that the rejection of Claims 1-8, 14, 15 and 21 as being unpatentable over Peisa in view of Ziera is overcome.

***C. Claims 9, 16 and 22 are Patentable over Peisa in view of Zeira and Eriksson***

The Official Action rejects Claims 9, 16 and 22 as being unpatentable over Peisa in view of Zeira, and further in view of Eriksson or Mousley. As explained above, neither Peisa nor Zeira, taken individually or in any proper combination, teaches nor suggests a processing scheme in which its components are selected and combined in dependence upon the source application from which data is directed, similar to amended independent Claims 1 and 4, and by dependency

Claims 9 and 16. Further, neither Peisa nor Zeira, taken individually or in any proper combination, teaches nor suggests including a code identifying each transport channel processing scheme in a physical layer signal produced by multiplexing a plurality of transport channels, as recited by amended independent Claim 1, and similarly amended independent Claim 22 and new independent Claim 23. Similarly, Applicants respectfully submit that neither Eriksson nor Mousley, taken individually or in any proper combination, teaches or suggests these features of the claimed invention. Applicants therefore respectfully submit that amended or new independent Claims 1, 4, 22 and 23, and by dependency Claims 9 and 16, are patentably distinct from Peisa, Zeira, Eriksson and Mousley, taken individually or in any proper combination.

For at least the foregoing reasons, Applicants respectfully submit that the rejection of Claims 9, 16 and 22 as being unpatentable over Peisa in view of Zeira, and further in view of Eriksson or Mousley, is overcome.

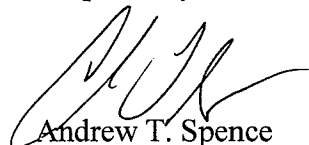
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### **CONCLUSION**

In view of the amendments to the claims and the remarks presented above, Applicants respectfully submits that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicants' undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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